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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,743	01/13/2004	Alvaro Mauricio Olarte	03719-P0002A	1847

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ST. ONGE STEWARD JOHNSTON & REENS, LLC  
986 BEDFORD STREET  
STAMFORD, CT 06905-5619

EXAMINER
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NELSON JR, MILTON

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/756,743

Applicant(s)

OLARTE, ALVARO MAURICIO

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 35-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 19-34 and 59-77 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/13/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information referred to in Applicant's information disclosure statement has been considered.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes reference to the "invention". Correction is required.

The disclosure is objected to because of the following informalities: In paragraph [0043] on page 11, the exploded view of Figure 8 is described as being an "exploded perspective view" of itself. Clarification is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-8, 10, 13, 19, 20, 24-34 and 59-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefinite language. Examples are as follows: In claim 2, Applicant refers to "standard" lengths. The scope of this term cannot be ascertained. This term renders the claim infinitely broad. Similarly note use of this term throughout the claims, including the independent claims. In claim 3, it is unclear if "at least one beam" is intended to be the same as the beam previously set forth in claim 1. Line 6 of claim 1 is grammatically vague. Note the recitation "requiring customization all beams". Similarly note the last line of claim 26. Claim 6 appears to include method recitations. Does Applicant intend to present a method of selecting? Similarly note claim 10 and throughout. In claim 7, "the appropriate number of cut lengths" lack proper antecedent basis. Claim 19 is grammatically vague. Note the recitation "said plurality of seat connection mechanism". In claim 25, it is unclear if "at least one beam" is intended to be the same as the previously set forth beam. In line 10 of claim 59, it is unclear if "the at least one seat back" is intended to be the same feature as the previously set forth "at least one seat back assembly". In claim 60, it is unclear if "at least one beam" is intended to be the same as the previously set forth "beam". Similarly note claims 61

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and 62. In claim 74, the recitation "the U shaped bracket are fixedly secured" is grammatically vague. In claim 74, it is unclear which of the previously set forth U shaped brackets is represented by "the U shaped bracket".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 15, 17 and 21, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Duke (1662378). Note the beam (20), base (7, 8), seat connection mechanisms (18, 19), seat bottom assemblies (members 17 form these), plurality of bases (see Figure 1), wherein the number of bases is less than the number of seat bottom assemblies (see Figure 1), and an end (note endmost members 7, 8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-8, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Caldwell (5306072). Duke shows all claimed features of the instant invention with the exception of an end to end joining of the beam having one length to a beam having a second length (claim 3); the end to end joining having a beam extension with a beam custom length, wherein the length is less than at least one of the first and second beam lengths (claim 4); the second length being cut into a cut length (claim 5); and a third beam length (claim 8). Note the discussion of Duke above. Also note that the beam length in Duke represents a first length. Additionally note that the recitations of claims 6 and 7 appear directed to method of selecting steps and thus carry no patentable weight in the instant article claim. Note that the beam length of Duke presents no wasted beam and is a cut length. Caldwell shows a seating assembly with an end to end joining of a beam having one length to a beam having a second length (see Figures 11 and 12); the end to end joining having a beam extension (51) with a beam custom length, wherein the length is less than at least one of the first and second beam lengths; the second length being cut into a cut lengths; and a third beam length (see Figure 7). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding an end to end joining of the beam having one length to a beam having a second length (claim 3); the end to end joining having a beam extension with a beam custom length, wherein the length is less than at least one of the first and second beam lengths (claim 4); the second length being cut into cut length (claim 5);

and a third beam length (claim 8). Each of the above modifications enhances provision of a knockdown, modular configuration to the seating assembly.

Claims 9-13, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Jovan et al (5529376). Duke shows all claimed features of the instant invention with the exception of at least one of the plurality of seat bottom assemblies having a width different than a width of another of the plurality of seat bottom assemblies (claim 9); wherein at least one of the plurality of seat back assemblies has a width different than a width of another of the plurality of seat back assemblies (claim 11); wherein each of the plurality of seat back assemblies is substantially the same width as a corresponding one of the plurality of seat bottom assemblies (claim 12). Note the discussion of Duke above. Additionally note that the recitations of claims 10 and 13 appear directed to method of selecting steps and thus carry no patentable weight in the instant article claim. Jovan et al conventionally teaches providing a seating assembly with at least one of a plurality of seat bottom assemblies having a width different than a width of another of the plurality of seat bottom assemblies; wherein at least one of the plurality of seat back assemblies has a width different than a width of another of the plurality of seat back assemblies; wherein each of the plurality of seat back assemblies is substantially the same width as a corresponding one of the plurality of seat bottom assemblies. Each of these features can be seen in Figure 1. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary

reference in view of the teachings of the secondary reference by configuring at least one of the plurality of seat bottom assemblies as having a width different than a width of another of the plurality of seat bottom assemblies (claim 9); wherein at least one of the plurality of seat back assemblies has a width different than a width of another of the plurality of seat back assemblies (claim 11); wherein each of the plurality of seat back assemblies is substantially the same width as a corresponding one of the plurality of seat bottom assemblies (claim 12). These conventional modifications provide assemblies of different sizes to enhance the comfort and support to users of different sizes.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Padovano (3785600). Duke shows all claimed features of the instant invention with the exception of the at least one base being fastened in place. Note the discussion of Duke above. Padovano conventionally teaches providing a seating assembly base (9) as fastened in place. Note that the base is fastened at least in place to the floor (3), as shown in Figure 3, and to the beam (7). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally fastening the base in place in order to enhance structural stability and user safety.



Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Day (3850476). Duke shows all claimed features of the instant invention with the exception of the seat connection mechanisms being configured such that the seat bottom assemblies are gravity lifted. Note the discussion of Duke above. Day conventionally teaches providing a seating assembly with a seat connection mechanism being configured such that the seat bottom assembly is gravity lifted. Note the counterweight (24) added to a portion (16) of the connection mechanism. It can be realized that gravity acts on the counterweight in order to lift the seat bottom. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of Day by conventionally adding a counterweight to the connection mechanisms so that the seat bottoms can be gravity lifted. This provides automatic lifting of the seat bottom when the seat bottom is unoccupied.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Infanti (6135562). Duke shows all claimed features of the instant invention with the exception of the plurality of seat bottom assemblies further comprising removable seat covers (claim 22); and the plurality of seat back assemblies further comprising removable back pads (claim 23). Note the discussion of Duke above. The secondary reference conventionally teaches providing a seating assembly with a seat bottom assembly comprising a removable seat cover (57); and a seat back assembly comprising a removable back pad (63). It would have been obvious to one

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having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally providing the plurality of seat bottom assemblies with removable seat covers (claim 22); and providing the plurality of seat back assemblies with removable back pads (claim 23). Such enhances aesthetic appeal and user comfort.

Claims 24, 27-29, 31 and 34, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Jovan et al (5529376). Duke shows all claimed features of the instant invention with the exception of at least one of the plurality of seat bottom assemblies having a width different than a width of another of the plurality of seat bottom assemblies (claim 24); wherein at least one of the plurality of seat back assemblies has a width different than a width of another of the plurality of seat back assemblies (claim 27); and wherein each of the plurality of seat back assemblies is substantially the same width as a corresponding one of the plurality of seat bottom assemblies (claim 28). Note the beam (20), base (7, 8), seat connection mechanisms (18, 19), seat bottom assemblies (members 17 form these), plurality of bases (see Figure 1), wherein the number of bases is less than the number of seat bottom assemblies (see Figure 1), and an end (note endmost members 7, 8). Additionally note that the recitations of claim 24, and lines 18-21 of claim 24, appear directed to method of selecting steps and thus carry no patentable weight in the instant article claim. Jovan et al conventionally teaches providing a seating assembly with at least one of a plurality

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of seat bottom assemblies having a width different than a width of another of the plurality of seat bottom assemblies; and wherein at least one of the plurality of seat back assemblies has a width different than a width of another of the plurality of seat back assemblies; and wherein each of the plurality of seat back assemblies is substantially the same width as a corresponding one of the plurality of seat bottom assemblies. Each of these features can be seen in Figure 1. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring at least one of the plurality of seat bottom assemblies as having a width different than a width of another of the plurality of seat bottom assemblies (claim 24); wherein at least one of the plurality of seat back assemblies has a width different than a width of another of the plurality of seat back assemblies (claim 27); wherein each of the plurality of seat back assemblies is substantially the same width as a corresponding one of the plurality of seat bottom assemblies (claim 28). These conventional modifications provide assemblies of different sizes to enhance the comfort and support to users of different sizes.

Claims 25 and 26, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Jovan et al (5529376), as applied to claim 24 above, and further in view of Caldwell (5306072). Duke, as modified above, shows all claimed features of the instant invention with the exception of an end to end joining of the beam having one length to a beam

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having a second length (claim 25); the end to end joining having a beam extension with a beam custom length, wherein the length is less than at least one of the first and second beam lengths (claim 26). Note the discussion of Duke, as modified by Jovan et al, above. Caldwell shows a seating assembly with an end to end joining of a beam having one length to a beam having a second length (see Figures 11 and 12); the end to end joining having a beam extension (51) with a beam custom length, wherein the length is less than at least one of the first and second beam lengths. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of the Caldwell by adding an end to end joining of the beam having one length to a beam having a second length (claim 25); the end to end joining having a beam extension with a beam custom length, wherein the length is less than at least one of the first and second beam lengths (claim 26). Each of the above modifications enhances provision of a knockdown, modular configuration to the seating assembly.

Claim 30, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Jovan et al (5529376), as applied to claim 24 above, and further in view of Padovano (3785600). Duke, as modified above, shows all claimed features of the instant invention with the exception of the at least one base being fastened in place. Note the discussion of Duke, as modified by Jovan et al, above. Padovano conventionally teaches providing a seating assembly base (9) as fastened in place. Note that the base is fastened at least

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in place to the floor (3), as shown in Figure 3, and to the beam (7). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Padovano by conventionally fastening the base in place in order to enhance structural stability and user safety.

Claim 32, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Duke (1662378) in view of Jovan et al (5529376), as applied to claim 24 above, and further in view of Day (3850476). Duke, as modified above, shows all claimed features of the instant invention with the exception of the seat connection mechanisms being configured such that the seat bottom assemblies are gravity lifted. Note the discussion of Duke, as modified by Jovan et al, above. Day conventionally teaches providing a seating assembly with a seat connection mechanism being configured such that the seat bottom assembly is gravity lifted. Note the counterweight (24) added to a portion (16) of the connection mechanism. It can be realized that gravity acts on the counterweight in order to lift the seat bottom. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Day by conventionally adding a counterweight to the connection mechanisms so that the seat bottoms can be gravity lifted. This provides automatic lifting of the seat bottom when the seat bottom is unoccupied.

***Allowable Subject Matter***

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20, 33 and 60-77 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 59 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

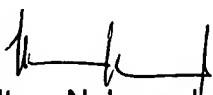
***Election/Restrictions***

Applicant's election of Group I, Figures 1-5, claims 1-15, 17-34, 59-71 and 73-77 in the reply filed on July 5, 2005 is acknowledged. Claims 16 and 35-58 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or embodiment of the invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 5, 2005. Non-elected claim 72 has been treated on the merits since it depends from a claim found to include allowable subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Monday-Wednesday, and alternate Fridays 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.  
Primary Examiner  
Art Unit 3636

mn  
September 19, 2005